



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 10

1200 Sixth Avenue
Seattle, WA 98101

MAR 19 2003

Reply To Attn Of: ECO-087

Marvin Cota
Shoshone-Paiute Tribes of the Duck Valley Reservation
P.O. Box 219
Owyhee, Nevada 89832-0219

Dear Chairman Cota:

This letter is a follow up to a letter I sent to you in February 2002 on the Columbia and Snake River Mainstem Total Maximum Daily Load (TMDL) work efforts for total dissolved gas (TDG) and water temperature. In that letter I notified the Shoshone-Paiute Tribes of the Duck Valley Reservation of the opportunity to coordinate and consult on future U.S. Environmental Protection Agency (EPA) decisions regarding water quality in the mainstem Columbia and Snake Rivers.

EPA, in coordination with the states of Washington, Oregon and Idaho; the Columbia River Tribes; and the Federal Columbia River Power System Action Agencies (FCRPS), U.S. Army Corps of Engineers, Bureau of Reclamation, and Bonneville Power Administration, has been working over the last several years to develop Total Maximum Daily Loads (TMDLs) for temperature and TDG in the mainstem Columbia and Snake Rivers. I am writing to you now to provide a brief status update on our progress and to invite your participation as we embark upon some critical next steps.

The Lower Columbia Total Dissolved Gas TDG TMDL, completed by Oregon and Washington, was approved by EPA in November 2002. Concurrent with their issuance of the TMDL, Oregon and Washington developed an implementation plan identifying a short and long term strategy, subject to adaptive management, to achieve needed improvements in dissolved gas levels. Meanwhile, Washington has developed a Draft TDG TMDL for the Lower Snake River which is currently in a public comment period. Washington and EPA have been working on the TDG TMDL for the Mid-Columbia and Lake Roosevelt. A Preliminary Draft of that TMDL effort is expected to be final by Spring 2003. A more specific description of these TMDL efforts can be found in Enclosure A.

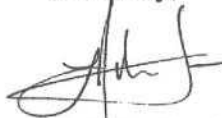
EPA provided a Preliminary Draft Columbia/Snake Mainstem Temperature TMDL in September 2002. Since that time, EPA has been asked to address technical and legal issues raised by the FCRPS Action Agencies and others. A key issue of concern is the need to understand how implementation of the temperature TMDL will proceed. In response, the states of Idaho, Washington, and Oregon, who have responsibility for developing the implementation plan, have agreed to develop in as much detail as possible an implementation strategy that can be

available for public review concurrent with the draft TMDL. The states have begun developing this implementation strategy, but they and other parties already assisting in this effort believe that the strategy will benefit from broader participation prior to formal public review.

We see this as potentially a critical opportunity for you to participate in steps to improve water quality in the mainstem Columbia and Snake Rivers. Should you wish to designate a representative to engage in ongoing discussions, please contact Dan Opalski at (503) 326-6890, Director, Oregon Operations Office. Specifically, an upcoming meeting of Federal and State water quality managers is scheduled for April 9 in Portland. This meeting will provide an update on the work of the States on the draft Columbia and Snake River Mainstem Temperature TMDL Implementation Plan, and can serve as an opportunity for you to provide input. We are notifying you of that meeting should you wish to send a representative. Mary Lou Soscia, (503) 326-5873, can provide your staff more information on that meeting and other information on the Columbia and Lower Snake TMDL efforts.

If you otherwise have comments or concerns about the Columbia River TMDL efforts, please call me at (206) 553-1234.

Sincerely,



L. John Iani
Regional Administrator

Enclosure A: EPA Updated Strategy for Consultation and Coordination with Indian Tribal Governments for Completing Mainstem Columbia River and Snake River TMDLs

cc: Guy Dodson, Shoshone-Paiute Tribes
Dan Opalski, EPA - Portland
David Smith, EPA - San Francisco

April 3, 2003

**EPA STRATEGY FOR CONSULTATION AND COORDINATION WITH
INDIAN TRIBAL GOVERNMENTS FOR COMPLETING
MAINSTEM COLUMBIA RIVER AND SNAKE RIVER TMDLs**

- I. **Purpose of the Strategy** - This strategy describes EPA's strategy for consultation and coordination with Indian Tribal Governments on the EPA actions to be taken on the Mainstem Columbia/Snake River TMDL. As outlined in the July 2001, U.S. Environmental Protection Agency- Region 10 Tribal Consultation Framework (attached), EPA is committed to consult with federally recognized tribal governments in a manner respectful of tribal sovereignty and culture.
- II. **The Columbia/Snake River Mainstem TMDLs** - EPA Region 10 is working with the states of Idaho, Oregon, Washington, in coordination with the 14 Columbia Basin Tribes to develop Columbia and Snake River Mainstem TMDLs for dissolved gas and water temperature to meet state and tribal water quality standards. These Total Maximum Daily Loads will focus solely on loading allocations for dissolved gas and water temperature. Implementation activities to improve water quality are not within the scope of EPA's responsibilities in this TMDL effort.
 - A. **EPA Temperature TMDL for Washington and Oregon and Tribal Waters** At the request of the states of Oregon and Washington, EPA will be doing the technical analysis and issuing temperature TMDLs for the Columbia/Snake River Mainstem in Oregon and Washington. EPA will be doing the technical analysis and issuing temperature TMDLs for Indian reservation waters in the Upper Columbia, including Lake Roosevelt.
 - B. **Idaho Temperature TMDL** - For the portion of the Snake River Mainstem in Idaho, EPA will be doing the technical analysis for the Temperature TMDL that will be issued by Idaho and submitted to EPA for approval.
 - C. **Oregon/Washington Lower Columbia Total Dissolved Gas TMDL** - In November 2002, EPA approved the Lower Columbia Total Dissolved Gas TMDLs which were issued by Oregon and Washington. The geographic scope is from the Pacific Ocean to the confluence with the Snake River.
 - D. **Washington Total Dissolved Gas TMDL** EPA also will be taking action to approve or disapprove the Lower Snake River Mainstem and Mid-Columbia River Total Dissolved Gas TMDLs that will prepared by the state of Washington.
 - E. **EPA Total Dissolved Gas TMDL for Colville and Spokane Reservations** - EPA will be doing the technical analysis and issuing the Total Dissolved Gas TMDL for Indian reservation waters in the Upper Columbia, including Lake Roosevelt.

III. **Other EPA Activities in the Columbia/Snake River System** - EPA is addressing Columbia and Snake River water quality improvement implementation activities in other policy forums. For the mainstem Columbia/Snake River, EPA is engaged with the Federal Columbia River Power System (FCRPS) action agencies - the U.S. Army Corps of Engineers, the Bonneville Power Administration, and the Bureau of Reclamation, in the development of a Columbia River Water Quality Plan. The Water Quality Plan was called for in the 2000 FCRPS Biological Opinion in Appendix B to address water quality actions needed for the Columbia but were considered outside the boundaries of species recovery. EPA is participating in other regional forums including the Federal Regional Executives, the NMFS Implementation Forum, and the Transboundary Gas Group to provide representation on Clean Water Act policy and technical decisions for the Columbia River.

IV. **Affected Tribal Governments** The following 14 Columbia Basin tribal governments are considered affected by the mainstem Columbia/Snake River TMDL:

Burns Paiute Tribe of the Burns Paiute Indian Colony of Oregon
Coeur d'Alene Tribe of the Coeur D'Alene Reservation, Idaho
Confederated Salish and Kootenai Tribes of the Flathead Reservation, Montana
Confederated Tribes of the Colville Reservation, Washington
Confederated Tribes of Grand Ronde
Confederated Tribes of the Umatilla Indian Reservation, Oregon
Confederated Tribes of the Warm Springs Reservation of Oregon
Confederated Tribes and Bands of the Yakama Nation, Washington
Kalispel Indian Community of the Kalispel Reservation, Washington
Kootenai Tribe of Idaho
Nez Perce Tribe, Idaho
Shoshone-Bannock Tribes of the Fort Hall Reservation of Idaho
Shoshone-Paiute Tribes of the Duck Valley Reservation, Nevada
Spokane Tribe of the Spokane Reservation, Washington

V. **General Approaches for Consultation and Coordination**

- A. Formal Government-to-Government Consultation with Tribal Governments - The Tribe may request formal consultation which may be conducted by the Regional Administrator or his designee.
- B. Coordination With Tribes, Their Staffs, and Regional Tribal Groups (CRITFC, UCUT, and Snake River Tribes - Monthly meetings are being conducted with EPA, state and tribal staff to discuss policy and technical decisions. In addition, EPA representatives are available to met with tribal staff and policy representatives to discuss technical and policy issues.
- C. Coordination with States, Other Federal Agencies, and EPA - EPA and the states of Oregon, Washington and Idaho signed a Memorandum of Agreement to define roles and responsibilities for the development of the Mainstem TMDLs. For approximately one year, EPA has been coordinating monthly meetings between the states, tribal staff and other interested entities to coordinate TMDL development.

- D. Funding -Funding for individual tribal consultation and coordination is not available. However, EPA has provided a small grant to the National Fish and Wildlife Foundation to help support tribal coordination and consultation. This grant supported a number forums to discuss the TMDL efforts and tribal issues.
- E. Issue Resolution - EPA will work with tribal governments to develop a consensus decisions before a final EPA decision is made. The EPA action/decision for these TMDLs is the development and issuance of the loading allocation for the temperature TMDL; for tribal waters, the development and issuance of the loading allocation for the gas TMDL; and the approval of the loading allocation for the state developed gas TMDLs.

VI. **Agency Contacts and Information Sources**

Mary Lou Soscia, Columbia River Coordinator - (503) 326-5873
Richard Parkin, Temperature TMDL Senior Staff - (206) 553-8574
Dan Opalski, Director of the Oregon Operations Office - (503) 326-3250
Jim Werntz, Director of the Idaho Operations Office - (208) 378-5743
Tim Hamlin, Director of the Washington Operations Office - (360) 753-8086